

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO

In re: \_\_\_\_\_ : Case No. 2:16-bk-50007  
 Richard D Davis : Chapter 13  
 Debtor(s) : Judge: Preston

**CHAPTER 13 PLAN**

**NOTE:** The term "Debtor" as used throughout this Plan shall reference either a single debtor or joint debtors. The term "Plan" shall refer to the plan filed in this case, as it may be amended, using the mandatory form plan adopted in this Division. All references to section (§) numbers are to sections of the United States Bankruptcy Code, 11 U.S.C. section § 101, et seq. The term "BR" shall refer to the Federal Rules of Bankruptcy Procedure. The term "LBR" shall refer to the Local Bankruptcy Rules of the Southern District of Ohio.

<input type="checkbox"/> Amended Plan		
All pre-confirmation amendments to an original Mandatory Form Plan shall be accomplished by filing a complete Plan with the changes highlighted or reflected in bold or italic typeface.		
<input type="checkbox"/> Above Median Income <input checked="" type="checkbox"/> Below Median Income	Insolvent unless otherwise marked below: <input type="checkbox"/> Solvent Estate	Dividend to Unsecured Creditors: <u>1 %</u>
Debtor claims to be eligible for discharge under § 1328(f) unless otherwise marked below:		
<input type="checkbox"/> Debtor is not eligible for discharge under § 1328(f) <input type="checkbox"/> Joint Debtor is not eligible for discharge under § 1328(f)		
Debtor		
(1) filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code on <u>January 4, 2016</u>		
<b>OR</b>		
(2) converted this case to a case under Chapter 13 on <u>N/A</u> ("Petition Date").		

**A. PAYMENTS****A(1). Plan Payments.**

The future earnings of Debtor are submitted to the supervision and control of the Trustee. Debtor shall pay the Trustee the sum of \$749.80 per month for twelve (12) months, then \$850.00 per month for twelve (12) months, then \$947.00 per month until the end of the plan per month (enter all step-payments), for a period not to exceed sixty months. Debtor shall commence payments within thirty days of the Petition Date, and distributions shall begin upon confirmation pursuant to § 1326(a). The effective date of the Plan shall be the date of entry of an order confirming the Plan.

From the payments so received, the Trustee shall make disbursements, subject to the Trustee's fee. The disbursement schedule is dependent upon receipt of regular monthly Plan payments. Any increases to monthly mortgage or escrow payments without corresponding changes to the Plan payment may impact the disbursement schedule. The Trustee has the discretion to calculate the amount and timing of distributions as is administratively efficient.

**A(2). Pre-Confirmation Adequate Protection Payments/Lease Payments.**

The following pre-confirmation adequate protection payments on claims secured by personal property and pre-confirmation lease payments for leases of personal property shall be paid by the Trustee, subject to his full fees, to the creditors listed below. Except as provided by § 501(c), secured creditors must file a proof of claim to receive payment. Unless otherwise ordered by the Court, these payments will be retained by the Trustee until confirmation and distributed after confirmation. If the case is dismissed or converted prior to confirmation, the Trustee will distribute the retained payments, pro rata, based on the adequate protection payment amounts.

Creditor	Property Description	Monthly Adequate Protection Payment
Harley-Davidson Financial	2007 Harley-Davidson Fat Boy 15,000 miles	\$25.00

**A(3). Administrative Expenses, Attorney Fees, and § 1326(b) Priority Payments.**

Administrative expenses, unitemized attorney fees, itemized attorney fees under LBR 2016-1(b)(2)(B), and priority payments as required by § 1326(b) shall be paid concurrently with Class 2 claims. The total unitemized attorney fee for services (not to exceed the amount set forth in LBR 2016-1(b)(2)(A)), or the estimated itemized fee under LBR 2016-1(b)(2)(B) is \$ 3,500.00.

Debtor's attorney received \$ 840.00 prior to the Petition Date. The Trustee shall disburse a minimum monthly amount of \$ 200.00 to Debtor's attorney until the balance of \$ 2,660.00 is paid in full. Fees for independent appraisals of real estate and utility deposits will be paid as administrative expenses pursuant to § 503 upon the timely filing of a proof of claim. The Trustee may pay in one lump sum any administrative claim that is less than \$500.00

**B. CLASS 1-CLAIMS SECURED BY REAL PROPERTY**

Except as set forth in section B(3), all secured creditors secured only by a security interest in real property shall retain their liens until the later of issuance of a discharge or payment of the underlying debt as determined under non-bankruptcy law.

**B(1). Mortgage Payments Outside the Plan.**

Regular monthly payments on the following mortgage claims will be paid directly by Debtor, if direct payments are permitted by LBR 3015-1(d)(1):

Creditor	Property Address
-NONE-	

**B(2). Conduit Mortgage Payments.**

Regular mortgage payments on the following mortgage claims will be paid on a conduit basis by the Trustee, subject to his full fees, beginning with the first calendar month after the Petition Date, if conduit payments are required by LBR 3015-1(d)(1) or proposed by Debtor. Confirmation of the Plan shall impose an affirmative duty and legal obligation on the holders and/or servicers of mortgage claims to do all of the following, unless the case is dismissed or converted:

(a) Apply the post-petition conduit mortgage payments as post-petition monthly payments of principal and interest on the mortgage note, and, if applicable, as post-petition monthly payments of escrowed items such as insurance and/or real estate taxes. If such payments are placed into a suspense, forbearance or similar account, they will be deemed to have been applied pursuant to this subsection.

(b) Apply the payments received from the Trustee for payment on the arrearage, if any, only to such arrearage. The arrearage shall be deemed paid in full upon the entry of the discharge order in this case, unless otherwise ordered by the Court

(c) Deem the pre-petition arrearage contractually current upon confirmation of the Plan so as to preclude the imposition of late payment charges or other default-related fees and services.

(d) File and serve a Notice of Mortgage Payment Change on Official Form 10S1, within the deadline and in compliance with the service requirements set forth in BR 3002.1(b), to reflect any changes in the monthly mortgage payments or escrow amounts that occur during the term of the Plan. Upon the filing of a Notice of Mortgage Payment Change, the Plan shall be deemed modified to permit the Trustee to disburse the amended payment amount.

Creditor	Property Address	Monthly Conduit Mortgage Payment
CitiMortgage	532 Larzelere Ave Zanesville, OH 43701 Muskingum County	\$465.00

**B(3). Liens and/or Mortgages to be Paid as Unsecured Claims.**

The following claims secured by a lien and/or mortgage will be paid as unsecured claims concurrent with Class 5 general unsecured claims. Debtor shall file a separate motion or adversary proceeding to determine: (i) whether the property listed below vests free and clear of the lien(s) and/or mortgage(s) pursuant to § 1327 or (ii) whether the lien(s) and/or mortgage(s) listed below may be avoided pursuant to other applicable provisions of the Bankruptcy Code. Notwithstanding § 1327(a), confirmation of the Plan shall not be dispositive of: (i) the valuation of the collateral or (ii) the secured status of the claims. Debtor has standing and authority to file the motion or adversary proceeding; to the extent that the Trustee has standing to bring such action, standing is hereby assigned to Debtor.

Creditor	Property Address
-NONE-	

**B(4). Liens and/or Mortgages Which May Be Modified.**

Liens and/or mortgage claims listed in this subsection consist of any claims secured by real property *that is not the Debtor's principal residence* or secured by other assets in addition to the residence. To the extent the claim of the lien holder and/or the mortgage claim holder is in excess of the value of the estate's interest in the collateral, the balance shall be treated as a Class 5 general unsecured claim. Unless otherwise stipulated or determined by order of the Court, the real property shall be valued for purposes of § 506 as set forth by Debtor below.

Creditor	Property Address	Value of Collateral	Interest Rate	Minimum Monthly Payment
-NONE-				

**B(5). Real Property to be Surrendered.**

(a) Debtor will surrender the following real property and any resulting deficiency balance shall be treated as a Class 5 general unsecured claim:

Creditor	Property Address
-NONE-	

(b) The Trustee shall not pay any claims secured by this real property until a timely filed secured proof of claim is amended to set forth the unsecured deficiency balance after disposition of the real property. Such amendments shall be filed no later than 365 days after confirmation of the Plan; amendments filed after that date shall be deemed disallowed and subject to discharge under § 1328 unless otherwise ordered by the Court. The Trustee will make no distributions in respect of mortgage payments, mortgage arrearages, or real estate taxes on surrendered real property, unless otherwise provided in the Plan or by order of the Court.

(c) Upon confirmation of the Plan, the automatic stay of § 362 shall be deemed modified to allow *in rem* disposition of the real property as necessary to effect the surrender.

NOTE: If, at any time after confirmation, sufficient funds are not available to make a full monthly payment on all Class 1 claims, at the Trustee's discretion, the available funds will be distributed pro rata on Class 1 claims. Any post-petition mortgage arrearages will be paid prior to payment of Class 2 claims.

**C. CLASS 2—CLAIMS SECURED BY PERSONAL PROPERTY; UNEXPIRED LEASES****C(1). Lien Retention and Interest.**

All secured creditors secured only by a security interest in personal property shall retain their liens until the earlier of issuance of a discharge or payment of the underlying debt as determined under non-bankruptcy law. Unless otherwise stipulated or provided for below, secured creditors shall be paid interest at the rate of 5 %.

**MANDATORY FORM PLAN (10/01/2010) Revised 04/01/2012****C(2). To Be Paid in Full (i.e., § 506 Does Not Apply).**

The Trustee shall pay the following claims in full:

Creditor	Property Description	Purchase Date	Estimated Claim Amount	Interest Rate	Minimum Monthly Payment
<b>Harley Davidson Financial</b>	<b>2007 Harley-Davidson Fat Boy 15,000 miles</b>	<b>1/01/14</b>	<b>\$9,623.00</b>	<b>5%</b>	<b>\$25.00 per month until attorney fees have been paid, then \$225.00 per month thereafter until paid in full</b>

**C(3). Claims to Which § 506 Applies.**

(a) Claims listed in this subsection consist of any claims secured by personal property not described above. To the extent a secured creditor's claim is in excess of the collateral value, the balance shall be treated as a Class 5 general unsecured claim. Unless otherwise stipulated or determined by order of the Court, the personal property shall be valued for purposes of § 506 at the lower of the creditor's valuation set forth on its proof of claim or the valuation set forth by Debtor below:

Creditor	Property Description	Purchase Date	Value of Collateral	Interest Rate	Minimum Monthly Payment
<b>-NONE-</b>					

**C(4). Personal Property to be Surrendered**

Debtor will surrender the following property and any resulting deficiency balance shall be treated as a Class 5 general unsecured claim:

Creditor	Property Description
<b>-NONE-</b>	

**C(5). Executory Contracts and Vehicle Leases.**

(a) Debtor rejects the following executory contract(s) and/or vehicle lease(s) and any resulting claim shall be treated as a Class 5 general unsecured claim:

Creditor	Property Description
<b>-NONE-</b>	

(b) Debtor assumes the executory contract(s) and/or vehicle lease(s) listed below. The Trustee shall pay vehicle lease payments unless otherwise ordered by the Court. Debtor shall pay all other lease or executory contract payments unless otherwise specified below. All payments under this section will begin the first calendar month following the Petition Date.

Creditor	Property Description	Termination Date	Monthly Payment Amount To be Paid Directly by Debtor	Monthly Payment Amount To be Paid by Trustee
<b>-NONE-</b>				

**NOTE:** If at any time after confirmation sufficient funds are not available to make a full monthly payment on all Class 2 claims, at the Trustee's discretion, the available funds will be paid pro rata on Class 2 claims and administrative expense claims.

**D. CLASS 3-PRIORITY CLAIMS AND DOMESTIC SUPPORT OBLIGATIONS****D(1). Priority Claims.**

Class 3 claims will be paid pro rata and concurrently with Class 4 claims. All allowed claims entitled to priority under § 507(a) shall be paid in full unless: (i) otherwise provided for in § 1322(a), or (ii) the holder of a particular claim agrees to a different treatment of its claim. Any and all pre-petition penalties, and post-petition penalties and interest, that have accrued or will accrue on any such claims shall be treated as Class 5 general unsecured claims and shall not be entitled to priority.

**MANDATORY FORM PLAN (10/01/2010) Revised 04/01/2012****D(2). Domestic Support Obligations.**

(a) Domestic support obligations (DSOs) as defined in § 101(14A). Debtor shall pay all post-petition DSOs directly to the DSO creditor and not through the Trustee. Upon completion of the Plan, Debtor shall certify to the Court that all payments on post-petition DSOs have been made. If Debtor becomes subject to a DSO during the term of the Plan, Debtor shall file with the Court and serve on the Trustee a notice reflecting the nature of the DSO, and the name and address of the DSO creditor.

Pre-petition arrearages on DSOs shall be paid as follows:

Name of DSO Creditor	Name & Address of CSEA	Estimated Arrearage Amount, if any, to be Paid Directly by Debtor	Estimated Arrearage Amount, if any, to be Paid by Trustee
Jennifer Murphy	Ohio Child Support Payment Central, P.O. Box 182372, Columbus OH 43218-2372	\$500.00	

(b) Name of governmental unit to which a DSO has been assigned, or is owed, or is recoverable by, and the estimated amount of the DSO:

Creditor	Governmental Unit	Estimated DSO Amount	To be Paid Directly by Debtor	To be Paid by Trustee
Jennifer Murphy	Ohio Child Support Payment Central, P.O. box 182372, Columbus OH 43218-2372	\$402.20 per month	X	

**E. CLASS 4-SECURED CLAIMS NOT OTHERWISE DESIGNATED****E(1). Payment of Class 4 Claims.**

Class 4 claims including itemized post-confirmation attorney fees per LBR 2016-1(c), pre-petition mortgage arrearages, pre-petition and post-petition lease arrearages, real estate taxes and other secured claims not otherwise designated shall be paid pro rata, concurrently and in full with Class 3 claims.

**NOTE:** No interest shall be paid on any pre-petition mortgage arrearages as part of the cure of the default if the mortgage was executed after October 22, 1994.

**E(2). Pre-Petition Arrearages on Real Estate Mortgage(s).**

The Trustee shall distribute payments to cure the following pre-petition mortgage arrearages:

Creditor	Property Address	Estimated Arrearage Amount
CitiMortgage	532 Larzelere Ave Zanesville, OH 43701 Muskingum County	\$8,000.00

**E(3). Arrearages on Assumed Leases and Executory Contracts.**

The Trustee shall distribute payments to cure the following arrearages on assumed leases and/or executory contracts:

Creditor	Property Address/Description	Estimated Arrearage Amount
-NONE-		

**F. CLASS 5-GENERAL UNSECURED CLAIMS****F(1). Unsecured Dividend.**

After payment of allowed claims in Classes 1, 2, 3 and 4, allowed general unsecured claims shall be paid a dividend as provided on page one of the Plan.

Notwithstanding the expiration of the claims bar date, the Trustee is authorized to modify the Plan post-confirmation to ensure that the plan length meets the "applicable commitment period" provided by § 1325(b) by filing a motion with the Court.

**F(2). Solvency.**

If this is a solvent estate, all general unsecured claims shall be paid in full with interest at 5 %, unless otherwise provided.

**G. MISCELLANEOUS PROVISIONS****G(1). Co-Debtor Claims not Otherwise Provided for in the Plan.**

(a) The following co-debtor claims will be paid in full by the Trustee concurrently with Class 4 claims to protect the co-debtor:

Creditor	To be Paid in Full with Interest at Rate Specified Below	Minimum Monthly Payment, if Applicable
<b>-NONE-</b>		

(b) The following co-debtor claims will be paid as follows:

Creditor	To be Paid by Co-Debtor Outside the Plan	To be Paid Same Dividend as General Unsecured Claims
<b>-NONE-</b>		

**G(2). Sale of Property.**

Debtor proposes to sell the real or personal property described below following Trustee and/or Court approval as required by LBR 6004-1(c)-(d). Debtor shall commit the net proceeds as follows:

Property Address/Description	Date by Which Sale Shall be Completed	Estimated Net Proceeds	Disposition of Net Proceeds
<b>-NONE-</b>			

**G(3). Tax Returns.**

All required tax returns have been filed except as provided below:

Tax Agency	Type of Tax	Tax Period	Date Return will be Filed
<b>-NONE-</b>			

**G(4). Vesting.**

Unless marked below, confirmation of the Plan vests all property of the estate in Debtor free and clear of any claim or interest of any creditor provided for by the Plan pursuant to § 1327(b) and (c).

Property of the estate shall not vest in Debtor upon confirmation but shall remain property of the estate until the case is dismissed, converted, or a discharge is issued, whichever occurs first.

**G(5). Other Events**

If any of the following occurs, Debtor shall fully and timely disclose the event to the Trustee and shall file any appropriate notice, application and/or motion with the Trustee and/or Court:

- Any change in marital status or child/spousal support payments;
- Any change in employment;
- Any change of address; and/or
- Any financial recovery to which Debtor becomes entitled for any reason, including without limitation, any personal injury claim, employment claim, workers' compensation claim, unemployment claim, inheritance, life insurance benefits, lottery proceeds or property settlement.

## MANDATORY FORM PLAN (10/01/2010) Revised 04/01/2012

**G(6). Insurance Information.**

As of the Petition Date, Debtor's property is insured as follows:

Property Address/Description	Insurance Company	Policy Number	Full/Liability	Agent and Contact Information
532 Larzelere Ave Zanesville, OH 43701 Muskingum County	Erie Insurance	Q570408349C	Full	Keith A. Shrider Ins (740) 450-8888
2005 Ford F150 159,000 miles Location: 532 Larzelere Ave, Zanesville OH 43701	Progressive	904858554	Full	Keith Shrider Ins (740) 450-8888
2007 Harley-Davidson Fat Boy 15,000 miles Location: 532 Larzelere Ave, Zanesville OH 43701	Progressive	904858554	Full	Keith Shrider Ins (740) 450-8888

**G(7). Casualty Loss Insurance Proceeds (Substitution of Collateral).**

If a motor vehicle is substantially damaged while subject to an unpaid secured claim, Debtor shall have the option, upon the filing of an appropriate motion, of using the proceeds of any insurance payable due to loss of the vehicle to: (i) repair the vehicle, (ii) pay off the balance of the secured claim if the secured creditor is a named loss payee on the policy, or (iii) substitute the collateral by purchasing a replacement vehicle. If Debtor purchases a replacement vehicle, the vehicle shall have a value not less than the balance of the unpaid secured claim, the lien of the creditor shall be transferred to the replacement vehicle, and the Trustee will continue to pay the allowed secured claim. Debtor may not purchase a replacement vehicle without Trustee and/or Court approval as required by LBR 4001-3(b)-(d).

**G(8). Post-Petition Debt.**

Debtor shall not incur any non-emergency consumer debt in excess of \$1,000 without Trustee and/or Court approval. LBR 4001-3(b)-(d).

**H. SPECIAL PROVISIONS**

The Special Provisions listed below, if any, are restricted to those items applicable to Debtor's particular circumstances.

**NOTE:** Special Provisions shall **NOT** contain a restatement of provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure or the Local Bankruptcy Rules, nor shall this section contain boilerplate language regarding the treatment of mortgages, mortgage arrearages, proofs of claim, consumer protection provisions or the like. *See* General Order No. 7.

<b>Special Provisions:</b>
1.

The undersigned hereby certify(ies) that the Plan does not contain any alterations to the text of the Mandatory Form Plan, except as authorized by order of the Court.

Case Attorney:

/s/ Mitchell C. Marczewski

Attorney for Debtor(s)

MARCZEWSKI LAW OFFICES LLC

1020 Maple Ave.

Zanesville OH 43701

740-453-8900; 740-453-8988, Fax

mitch@zanesvillelawyer.com

Dated: January 19, 2016 in the year of our Lord

**MANDATORY FORM PLAN (10/01/2010) Revised 04/01/2012**

Debtor

/s/ Richard D. Davis

Richard D Davis

Dated: January 19, 2016 in the year of our Lord

**NOTICE OF CHAPTER 13 PLAN**

Debtor(s) has filed a **Chapter 13 Plan** with the Court.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the relief sought in the **Chapter 13 Plan**, then on or before **twenty-one (21) days from the date set forth in the certificate of service**, you must file with the Court a response explaining your position by mailing your response by regular U.S. Mail to United States Bankruptcy Court, 170 North High Street, Columbus, OH 43215 OR your attorney must file a response using the Court's ECF system.

The Court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the Court's ECF System or by 2) regular U.S. Mail to:

- ? Chapter 13 Trustee, 130 E. Wilson Bridge Rd #200, Worthington OH 43085
- ? US Trustee, 170 N. High St #200, Columbus OH 43215
- ? Mitchell C. Marczewski, 1020 Maple Avenue, Zanesville, OH 43701

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the **Chapter 13 Plan** and may enter and Order granting that relief without further hearing or notice.

**CERTIFICATE OF SERVICE (LBR 9013-3)**

I hereby certify that on January 19, 2016 in the year of Our Lord, a copy of the foregoing **Chapter 13 Plan** was served on the following registered ECF participants, **electronically** through the court's ECF System at the email address registered with the Court:

Frank M. Pees, Chapter 13 Trustee  
Asst US Trustee (Col)  
Mitchell Marczewski on behalf of Debtor Richard Davis

And on the following by **ordinary U.S. Mail** addressed to:

Capital One |Attn: Bankruptcy|Po Box 30285|Salt Lake City, UT 84130-0285  
Capital One Bank |ATTN: Bankruptcy Dept|PO Box 30285|Salt Lake City, UT 84130-0285  
Chex Systems |7805 Hudson Rd Ste 100|Saint Paul, MN 55125-1703  
CitiMortgage |1000 Technology Drive MS314|O Fallon, MO 63368-2240  
CitiMortgage |Po Box 9438|Gaithersburg, MD 20898-9438  
Credit Collections Svc |Po Box 773|Needham, MA 02494-0918  
ERC/Enhanced Recovery Corp |8014 Bayberry Rd|Jacksonville, FL 32256-7412  
Equifax |Box 740241|Atlanta, GA 30374-0241  
Experian National Consumer Assistance |P.O. Box 2002|Allen, TX 75013-2002  
Harley Davidson Financial |Attention: Bankruptcy|Po Box 22048|Carson City, NV 89721-2048  
IC Systems, Inc |444 Highway 96 East|Po Box 64378|St Paul, MN 55164-0378  
IRS |Centralized Insolvency Operations|Box 7346|Philadelphia, PA 19101-7346  
Midland Funding |2365 Northside Dr|Suite 300|San Diego, CA 92108-2709  
Muskingum County Treasurer |401 Main St.|Zanesville, OH 43701-3565

**MANDATORY FORM PLAN (10/01/2010) Revised 04/01/2012**

Ohio Attorney General |Bankruptcy Dept|150 E Gay Street 21st Floor|Columbus, OH 43215-3191

Ohio Bureau of Motor Vehicles |PO Box 16520|Columbus, OH 43216-6520

Ohio Dept Job & Family Services |Bankruptcy Section|30 E Broad St 32d Floor|Columbus, OH 43215-3414

Ohio Dept of Taxation |Bankruptcy Division|Box 530|Columbus, OH 43266-0030

Ohio Homeowners Assistance LLC |88 E Broad Street Ste 1800|Columbus, OH 43215-3526

Rcyl Per Mng |Attn:Collections/Bankruptcy|Po Box 1548|Lynnwood, WA 98046-1548

TransUnion |Box 2000|Chester, PA 19016-2000

Richard D Davis |532 Larzelere Ave|Zanesville, OH 43701-4833

*/s/ Mitchell C. Marczewski*  
**MITCHELL C. MARCZEWSKI (0073258)**